

### SECTION III—REMARKS

This amendment is submitted in response to the Office Action mailed October 12, 2005. Claims 29, 31, 34 and 36 are amended and claims 29-38 remain pending in the application. Applicants respectfully request reconsideration of the application and allowance of all pending claims in view of the above amendments and the following remarks.

#### Rejections Under 35 U.S.C. § 102

The Examiner rejected claim 29 as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,913,244 to Heinouchi (“*Heinouchi*”) and by European Patent No. EP 1 468 960 to Bouche *et al.* (“*Bouche*”). The Examiner also rejected claim 31 as anticipated under 35 U.S.C. § 102(b) by *Heinouchi*. Applicants respectfully traverse the Examiner’s rejections.

First, Applicants respectfully traverse the Examiner’s rejection based on *Bouche*. The present application is a divisional with a priority date of December 15, 2000. *Bouche* has a publication date of October 20, 2004—nearly four years after the present application’s priority date. *Bouche* is therefore not prior art and cannot be used in any way to reject claims in the present application. Applicants therefore respectfully request withdrawal of all rejections based on *Bouche*.

Next, Applicants respectfully traverse the Examiner’s rejections based on *Heinouchi*. A claim is anticipated only if each and every element, as set forth in the claim, is found in a single prior-art reference. MPEP § 2131; *Verdegaal Bros. v.*

*Union Oil of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). As explained below, *Heinouchi* cannot anticipate these claims because it does not disclose every element and limitation recited therein.

Claim 29, as amended, recites a micro resonator combination including an oscillator member disposed upon an oscillator pedestal and “an ablative structure positioned on the oscillator member, the ablative structure being separated from the oscillator member by a protective pad.” *Heinouchi* does not disclose a combination including the recited features. Instead, *Heinouchi* discloses a vibrator 10 that includes an oscillator 12 connected to a holding member 32. The oscillator 12 is sandwiched between two pairs of piezoelectric devices: devices 24a and 24c on top, and devices 24b and 24d on the bottom (col. 4, lines 4-11). Each piezoelectric device consists of a piezoelectric layer 26 sandwiched between a pair of electrodes 28 and 30 (col. 4, lines 12-21).

*Heinouchi* does not disclose, teach or suggest that any part of the piezoelectric devices 24 is ablative. In particular, *Heinouchi* does not disclose, teach or suggest that the piezoelectric layer 26—which the Examiner says corresponds to the recited “structure”—is ablative. *Heinouchi* therefore cannot disclose, teach or suggest a combination including the recited features. Applicants therefore respectfully request withdrawal of the rejection and allowance of the claim.

Regarding claim 31, if an independent claim is allowable then any claim depending therefrom is also allowable. *See generally* MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 29 is in condition for allowance. Applicants respectfully submit that claim 31 is therefore allowable by virtue of its dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicants therefore respectfully request withdrawal of the rejection and allowance of the claim.

#### Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 30, 32, 33 and 34-38 under 35 U.S.C § 103(a) as obvious in view of, and therefore unpatentable over, different combinations of *Heinouchi*, *Bouche* and U.S. Patent No. 3,683,213 to Staudte (“*Staudte*”). Specifically, the Examiner rejected claims 30, 32 and 33 as obviated by either *Heinouchi* or *Bouche* and rejected claims 34-38 as obviated by *Heinouchi* in view of *Staudte*.

As to claims 30, 32 and 33, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 29 is in condition for allowance. Applicants therefore respectfully submit that claims 30, 32 and 33 are allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicants

therefore respectfully request withdrawal of the rejections and allowance of these claims.

As to claim 34, Applicants respectfully traverse the Examiner's rejection. To establish a *prima facie* case of obviousness, three criteria must be met: (1) the prior art references must teach or suggest all the claim limitations; (2) some suggestion or motivation to combine the references must be found in the prior art; and (3) there must be a reasonable expectation of success. MPEP § 2143. As explained below, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness.

Claim 34, as amended, recites a micro resonator combination including an oscillator member suspended above a substrate by an oscillator pedestal and “an ablative structure positioned on the oscillator member, the ablative structure being separated from the oscillator member by a protective pad.” As discussed above for claim 29, *Heinouchi* does not disclose, teach or suggest a combination including these limitations. Similarly, *Staudte* does not disclose, teach or suggest these limitations. Instead, *Staudte* discloses a microresonator 16 having a tuning-fork configuration including a metal film weight 20 formed directly on each tine 19 of the tuning fork. *Staudte* does not disclose, teach or suggest using any kind of protective pad between the metal weight 20 and the microresonator tines 19, nor does it disclose, teach or suggest that the metal weights 20 are ablative. Since neither *Heinouchi* nor *Staudte* discloses the recited features, the combination of

these two references cannot disclose, teach or suggest a microresonator combination including “an ablative structure positioned on the oscillator member, the ablative structure being separated from the oscillator member by a protective pad.” Applicants therefore respectfully request withdrawal of the rejection and allowance of the claim.

Regarding claims 35-38, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 34 is in condition for allowance. Applicants respectfully submit that claims 35-38 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicants therefore respectfully request withdrawal of the rejections and allowance of these claims.

### Conclusion

Given the above amendments and accompanying remarks, all claims pending in the application are in condition for allowance. If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to allowance of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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